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qualification for fixed opinions. If you can excite interest in bench and bar in what has been achieved at home and abroad, and induce the profession to investigate what reforms in procedure have done and hence may do elsewhere, instead of harping forever on the monstrosity which over-minute legislation has produced in New York, you will have rendered a service." J. W. G.

**Governor Gilchrist on the Law's Delays.**—Governor A. W. Gilchrist of Florida gives a leading place in his last annual message to the legislature to a discussion of the causes and remedies for the law's delay. After reviewing the English practice and calling attention to the recommendations of the American Bar Association with regard to reversals for harmless errors, he goes on to say:

"Under our laws, if an attorney so desires, it is almost impossible to secure final judgment in less than seven or eight months from the date of the conviction. In case of a death sentence, all that is necessary is for the attorney to take exceptions. Exceptions being overruled, sixty to ninety days are allowed in which to prepare a bill of exceptions. At the end of such time no writ of error is sued out. The Governor issues the death warrant, returnable within a reasonable time, say, three or four weeks. Just before the date of execution a writ of error is sued out as a 'matter of right.' This writ is returnable to the supreme court at its next term, 'unless the first day of said next term shall be less than thirty days from the date of the writ, when it shall be returnable to a day in said next succeeding term, more than thirty days and not more than fifty days from the date of the writ.' Then the attorney-general has thirty days in which to make reply. Then the attorney for the defendant has twenty days. If the supreme court is ready to hear the case at once, it thus takes seven or eight months at the shortest time to hear any such case. Suppose the writ of error is taken out at the beginning of a term, returnable to the next term, six months distant. It thus appears that fully eleven or twelve months may be necessary in order to hear the case. In the event the case should be reversed on a point of law, by the time the case is tried again the witnesses who have testified as to facts have died or moved away or have forgotten. The facts in the case, as well as the law, are at issue in the next trial. Then, according to 'due process of law,' not on account of 'right and justice,' but for some error for which the attorney is responsible, another long-drawn-out trial is obtained, involving not only questions of fact, but questions of law. If a verdict of guilty is again obtained, it goes before the supreme court again.

Speaking of the attitude of the Supreme Court of Florida toward technicalities, he says: "I could get up enough data for a pretty good-sized book showing decisions by which 'due process of law' has run rough-shod over 'right and justice.' Among the cases cited by him in illustration are the two following:

"In *Mobley v. State*, 57 Fla. 22, defendant was convicted in the trial court of the larceny of a cow. The supreme court reversed the judgment of the lower court and awarded defendant a new trial on the ground that the information charged the defendant with stealing a *cow*, on a certain day, from H. T. Lykes, while the evidence introduced at the trial showed that the defendant, on the same day, stole a *steer* from the said Lykes. This was held by the supreme court to be a fatal variance between the allegations in the information and the proof on which the verdict of guilty was obtained. Had this steer proved to be a bull, there is no telling what effect it would have had upon determining the decision of the court.

"In *Hampton v. State,* 50 Fla. 55, the defendant was convicted of manslaughter in the lower court, and the judgment was reversed and a new trial ordered by the supreme court, the supreme court holding that the judge of the lower court erred in denying the motion of defendant to strike 'the testimony of state's witness, J. W. Evans, to the effect that his wife (the deceased) would have eaten breakfast on the morning of the fatal operation upon her had she not been prevented by one of the defendants, etc.' The supreme court also held that it was an error for the judge of the lower court to sustain objection by the state's counsel to the following questions propounded by defendant's counsel to state witness: 'Why did you do that? Was it because you thought my friend Simonton was incompetent?' the supreme court also holding as error the trial court's permitting certain questions to be asked on cross-examination by state's counsel; also holding as error certain charges given by the court below with respect to the right of the jury to discard evidence which they did not believe and charges of the lower court defining reasonable doubt."

J. W. G.

**The Jury System.**—The May number of *Case and Comment* is devoted especially to the jury system. John M. Steele, commissioner of jurors of Monroe County, New York, describes the jury commissioner system that has been in operation in that county for the past fourteen years.

"The definite object aimed at by the jury commission system," he says, "is to secure at a minimum cost competent and impartial jurors.

"Under the old system the supervisor, town clerk and assessors of each town and the supervisors in the city presented to the courts a list of persons from their town or ward, whom they certified as being qualified for the duties expected of them. Personal preference and political considerations oftentimes entered largely into the selection of such lists. But little discrimination was made, though men were oftentimes physically, mentally and morally unfit to sit as jurors. Of course much of this became manifest as soon as they were examined. But the summoning and excusing of so many incompetents alone cost the county thousands of dollars annually. Besides this same class of jurors came up year after year, and there was no means apparently of preventing it. It became evident that the matter ought to be placed in the hands of a commissioner of jurors, that he might select by careful inquiry men known for character, for intelligence, for merit and fitness, so that a panel for the trial of any case could always be had representing the general intelligence of the community and even better."

Robert A. Edgar of the Wisconsin bar contributes an article on "Proposed Reforms of the Jury System." In the first place there are too many exemptions from jury service, he says. It would be better to repeal all exemptions, except attorneys and court officers, and leave the court to excuse in case of extreme individual hardship. The selection of names for the jury list should not be made by the sheriff, but by an impartial commissioner or commissioners appointed by the judges and who should be empowered to summon and examine under oath prospective jurors touching their qualifications. Talesmen should not be called as jurors since it affords too good an opportunity for the jury fixer to get in his work and for the professional juror to be called. Concerning the practice of challenging jurors who have read newspaper accounts of the crime he says: